OFFICIAL REPORT
AITHISG OIFIGEIL

Standards, Procedures and Public Appointments Committee

Thursday 19 June 2025

Session 6

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STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE

11th Meeting 2025, Session 6

CONVENER

*Martin Whitfield (South Scotland) (Lab)

DEPUTY CONVENER

Ruth Maguire (Cunninghame South) (SNP)

COMMITTEE MEMBERS

*Emma Roddick (Highlands and Islands) (SNP)
*Sue Webber (Lothian) (Con)
*Annie Wells (Glasgow) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Catriona Lyle (Scottish Parliament)
Rona Mackay (Strathkelvin and Bearsden) (SNP) (Committee Substitute)
Ben McKendrick (Scottish Parliament)
Graham Simpson (Central Scotland) (Con)

CLERK TO THE COMMITTEE

Catherine Fergusson

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Standards, Procedures and Public Appointments Committee

Thursday 19 June 2025

[The Convener opened the meeting at 09:00]

Decision on Taking Business in Private

The Convener (Martin Whitfield): Good morning. I welcome everyone to the 11th meeting in 2025 of the Standards, Procedures and Public Appointments Committee. I have received apologies from Ruth Maguire, so I welcome Rona Mackay, who is attending as a committee substitute.

Our first item of business is for the committee to agree to take in private item 4, which will be discussion of the evidence on a member's bill that we are about to hear. Are members content to take that item in private?

Members *indicated agreement.*

Scottish Parliament (Recall and Removal of Members) Bill: Stage 1

09:00

The Convener: Today, we conclude our oral evidence sessions on the Scottish Parliament (Recall and Removal of Members) Bill at stage 1. I welcome Graham Simpson, who is the member in charge of the bill. He is joined by Ben McKendrick, senior clerk in the Scottish Parliament's non-Government bills unit, and Catriona Lyle, who is from the Scottish Parliament's legal services office. Graham, before we move to questions from members, would you like to open on the purpose of the bill and the reasons for it?

Graham Simpson (Central Scotland) (Con): Thank you, convener. I have very much enjoyed the committee's previous meetings on the bill. The range of questions—I am sure that I will get the same—has been very good and they have covered all aspects of the bill.

I am not assuming that we will get to stage 2, but, should we do so, I very much look forward to seeing Ruth Maguire back on the committee—if, indeed, she does return to it—so that she can get her teeth into the bill. That would be good. I am sure that we would all want that.

Appearing before a committee can be daunting. As a member, I have given a number of people a good grilling and, no doubt, some of them are watching, hoping that I will get the kind of treatment that I have dished out. This is not my first time appearing in front of a committee to talk about my bill. I appeared before the Senedd's Standards of Conduct Committee, which wanted to know all about the bill. We did a private session and a public one, and I call those dress rehearsals.

I thought that it would be useful to provide some background to the bill and my thinking on it before we get into questions. As you all know, members of the Scottish Parliament are elected every five years. If a member decides to stand again, the public gets its say: they can decide whether that person is re-elected.

What happens if any of us do not adequately represent the needs of those who put us here, or if we demonstrate very poor conduct during those five years? We are all obliged to adhere to a code of conduct and, if we do not, the Standards, Procedures and Public Appointments Committee can recommend sanctions up to and including suspension, but it cannot recommend that an MSP be removed from office, no matter how bad their behaviour. There is also no mechanism that allows

constituents to remove an MSP during a parliamentary term, no matter how serious a sanction this committee recommends. The only way that an MSP can be removed from office altogether is if they receive a custodial sentence of longer than one year. That is too high a bar.

In addition, if any MSP is elected and never comes to this building—ever—there is nothing that the public or anyone else can do until the next election. That is an absurd situation. By contrast, in other workplaces, if an employee repeatedly or seriously breaches their company's code of conduct, they could be sacked. If an employee just does not attend their place of work without good reason, they could be removed, and we would expect that. If an employee receives a relatively short custodial sentence for a criminal offence, that could lead to their dismissal, especially if they are in a senior position. To me, the contrast is quite jarring. My bill would improve democratic accountability by ensuring that MSPs could be removed more easily if our conduct fell short of what our constituents could reasonably expect.

The bill is in three parts. The first part of the bill would introduce a recall system—the committee has focused quite heavily on that. It draws on the Recall of MPs Act 2015 but adapts those provisions to ensure that they work in our electoral system. We will, no doubt, discuss that later.

Part 2 would reduce the length of custodial sentence that results in the automatic removal of an MSP from more than 12 months to six months. It provides that, if an MSP does not attend parliamentary proceedings in person for a six-month period without good reason, this committee could recommend to the Parliament that they be removed.

Serving as an MSP is a privilege, and my bill would ensure that we are all much more accountable. Ultimately, I think that the people who choose us to represent them will feel that the provisions of the bill and their implications for members are fair, proportionate and in line with what people in the outside world would experience in their places of work.

I look forward to the questions.

The Convener: Thank you very much for your opening comments, particularly those about a committee member whom we hope to see return in the very near future. Now is the moment for all those people whom you have grilled to open the popcorn and pull their chair forward.

I will kick us off. You answered my first question, on what you would say is the main purpose of recall. I would like to explore that with you a bit. In much of the documentation and, indeed, the representations that you have made today, you have talked specifically about the MSP as an individual and about their behaviour or choices falling below what their electorate could reasonably expect of them. In the bill, you lay out some simple, objective tests to determine whether an MSP has fallen short. There are, however, also subjective tests, such as providing a reasonable explanation for why something has happened. Do you find that a challenge? We would potentially put into legislation something that others—possibly this committee or its future iterations, as your bill suggests—would decide. Are there challenges in relation to giving subjective tests to future committees when the bill also contains simple objective tests in relation to sentencing and things like that? What is your thinking about those two decisions?

Graham Simpson: I think that the subjective bit that you might be referring to is the non-attendance part and the reasonable excuses for not coming—Rona Mackay has been exploring those questions. I was very clear when I was considering that provision that I would not target people who just do not turn up. Many people in any workplace—and I consider this a workplace—might not go to work for very good reasons. However, there will be a whole host of reasons and I do not think that we can list them in the bill. Life is complicated and we must accept that. People have different things going on in their lives at different times, and I think that, if you are unable to come to work physically for any reason, there ought to be a mechanism for explaining that privately. There will be a subjective test there—

The Convener: Sorry—I do not mean to cut across you. I think that we will address the specifics of that part of the bill in other questions. I am trying to ask the higher-level question about whether you are content that your bill contains both objective, easily understood reasons for a recall but also subjective assessments on which someone else must make a decision before the recall. Is there a contradiction in that? Are you happy with that? Are you happy that those decisions would go to a future decision-making body?

Graham Simpson: I see what you mean. Focusing on recall, I have tried to come up with a fair and proportionate system.

I am racking my brains to think which bit you are referring to that would—

The Convener: I will try to approach the question in a different way and see whether that assists. It is poor questioning rather than putting you in a difficult position.

You agree that the bill is, in effect, about individual members of the Scottish Parliament. Is it about misconduct? Is it about ensuring effective representation, which was one of the suggestions

that you made in your opening remarks? Is it about empowering the constituents of an MSP? What is the purpose and key part of the bill? Is it about misconduct, effective representation or additionally empowering voters?

Graham Simpson: I suppose that it is about all of those, but, ultimately, the first stage is an MSP not performing properly or breaking the rules. The misconduct would come first, otherwise none of this applies. If people behave as they should, none of this applies. Ultimately, if the bill goes through, I would love it just to sit there and never be used, with people wondering why it is there, because everyone is behaving. But life is not like that. You know that. We are all human. At some point, somebody will misbehave, and, although the legislation would be a deterrent, somebody will fall foul of it at some point.

The Convener: It is fundamentally about trying to guide MSPs to behave properly. I am trying to see where we land between that and representation of the electorate. There are people who will say that their representative is not representing them. It might be a substantial number of people. It might, in fact, be a majority of people in the constituency or region who are saying that. Could just being so annoyed at a representative that you want rid of them be a ground for doing so?

Graham Simpson: There is a difference between being annoyed at a representative and that representative breaking a set of rules. I guess that we have all annoyed people at some point—

The Convener: I cannot imagine that.

Graham Simpson: —but that is not a reason to remove somebody from their elected position.

The tests are set out in the bill. They would need to actually break certain rules, which are set out in the bill. It is not enough to say, "I don't like that person. I don't like the way they have gone about that campaign," or whatever. No chance.

The Convener: The challenge is in the way that the bill is drafted. There are objective tests to be met, such as being sentenced to imprisonment, and there is no excuse for that. There are then the more subjective behavioural choices. I do not want to use the word "excuses", because they are not excuses, but there might be explanations for those choices. I am just trying to work out which is the most important from your point of view.

An objective, simply assessed test is that you are in prison. A more subjective test is absence, and if you can give a reason, such as general data protection regulations, privacy, family support and all that, then that is all right. However, the voter from that area is going to say, "They said that that was all right, but they did not say why."

Graham Simpson: In cases such as that, people are entitled to a degree of privacy. I know that we will come on to talk about non-attendance, but you have raised it. Let us that say somebody has an illness—this has happened. MSPs fall ill, which means that they cannot come in for a period of time. We would not expect somebody to lose their job because of that, and, if the MSP wanted it to be private, we would expect it to be private. Things happen in people's lives that mean that they cannot come into work and they deserve that level of privacy. I am trying to maintain that.

09:15

The Convener: You are trying to find that balance between the privacy that MSPs are entitled to, because it is a very public job at the best of times, and the potential requirement when there is not a satisfactory explanation and there is a failure on behalf of the voters who sent an MSP here to perform their job.

Graham Simpson: That is correct.

At the moment, it is possible for any of us to decide not to come in, and that is wrong. That cannot be right. My starting point was that, because I had been a councillor, I knew the law that applied to councillors, which is very clear: if you do not attend for six months, you can be removed but you will not necessarily be removed. For example, I took part in a vote in South Lanarkshire Council about a colleague—not a party colleague—who had been off. I will not say why they were off, but they were and there was a very good reason why. The council decided that they should be allowed to continue, and that individual is still a councillor.

The Convener: In essence, that is the application of the balance that I was inquiring about between the objective and the subjective.

Graham Simpson: Correct.

Rona Mackay (Strathkelvin and Bearsden) (SNP): I agree with a lot of what you say. I just want to pick up a couple of things. You said that, at the moment, someone can decide not to come in, but they have to answer to the whips. Believe me, we have to have a rigorous reason why we are not coming in, unless it is a long-term issue and there are good reasons.

The other phrase that jumped out at me when you were answering the convener was when you said "not performing properly". I suggest that that is very subjective, and you do not set that out in the bill. That is a wee bit of a grey area, because you do not list the criteria for that.

Graham Simpson: I apologise for the phraseology, but I think that the bill is quite clear about what I am trying to achieve. It is not about

dealing with people who are "not performing properly", because that is subjective.

Rona Mackay: Yes—that was my point.

Graham Simpson: I am dealing with people who fall foul of the rules. In relation to the whips, I am glad that I do not have to answer to you, Ms Mackay.

Rona Mackay: That holds across the board, for all parties.

Graham Simpson: I know. I really do not think that the threat of a fearsome whip is enough, to be honest. Actual hard-and-fast rules need to be set down, otherwise the scenario that I have set out is possible. What if somebody just decided to ignore you, Ms Mackay?

Rona Mackay: Never. [*Laughter*.]

Graham Simpson: I would not recommend that, but they could do that. They could just take the huff and say, "I'm not coming in."

Rona Mackay: Surely, each party would apply its own standing orders and internal rules to such a situation, unless there were a legitimate reason in relation to physical or mental health grounds or caring duties and so on. That is different, but in the case of somebody saying, "I'm fed up with going into Holyrood, so I'm just not going to go," we have party rules, as I am sure that you do, to counteract that. I would be suspended from the party if I did that.

Graham Simpson: Well, that is fine—you could suspend somebody from the Scottish National Party, but they could remain as an MSP. As a whip, you cannot remove somebody as an MSP.

Rona Mackay: I accept that. I understand that.

Graham Simpson: My bill attempts to say, "No, you actually have to come in. You are elected as a member of this Parliament. Members of the public expect that you will occasionally turn up, as you would find in any other workplace, and, if you do not, the ultimate sanction is that you could be removed."

Rona Mackay: I completely agree with you—I just want to put that on the record. I am not quibbling with that. I am just trying to tease out some of the phraseology that you have used.

Graham Simpson: You are quite right, because you are here to ask questions; that is what the committee is here for. We are here to explore the issues that are raised by the bill. You have raised a really good point, which is that parties have their internal processes. Indeed, I suppose that, as a whip, you can dish out certain punishments, but you cannot remove somebody as an MSP.

Rona Mackay: Yes, I accept that.

Graham Simpson: That is what my bill is attempting to enable.

The Convener: You will have heard from the evidence that one of the areas that we have been looking at and inquiring about is the cost of the recall of a regional MSP. We will get into the money aspect of the bill later, but, on a fundamental level, you have talked about seeking parity between the first-past-the-post constituency election and the regional d'Hondt system that we use here to balance the whole of the Parliament. We have heard different evidence about where that should land.

A reasonably substantial amount of evidence suggests that, once you come through the door and have taken your oath and are an MSP, there is parity between regional and constituency MSPs in the Parliament. There is a different route in, so could there be a different route out? In our consideration of the proposals in the bill and in the consultation that you carried out on it, one of the things that came up, which I would like you to address at this stage, is that removal at a regional level costs a huge amount of money. We have heard some statements that democracy costs money and you just have to pay it, but do you think that that expenditure is justified?

A different approach would be that, although there is parity when you are in this place as an MSP, there can be a difference in how you come in—which there is—and a potential difference in how you go out. However, that would override what you have sought to do with the bill, which is to provide for parity between the different types of MSP. It is a unique situation in Scotland because, after the change in Wales, down the line, we will be the only Parliament that has different ways of coming in. What are your thoughts on that?

Graham Simpson: That is the key issue, really, and it is something that I really wrestled with when I was thinking about the bill. For a while, I did not have a solution and I just thought that I was going to have to give up on recall; then it hit me that I was thinking about it in the wrong way. If we are going to have a power of recall—and all parties in the Parliament seem to agree that we should have something—we must address the fact that we have this odd electoral system, which I have said in this committee that I do not like, but which we are stuck with, so I must work with it.

For constituency members, it is relatively straightforward—we can almost mirror the system in Westminster and improve on it, as I said last week. We could ultimately have the best recall system in the United Kingdom at the end of this. However, we also must balance that with the fact that we have regional members.

With a constituency member who is subject to recall, there are two stages. First, the voters are asked whether the member should be recalled, and, secondly, there is a by-election if a threshold is met. What struck me about that approach was that the member, should they wish to proceed—some will not—would be able to put their case to the electors and say why they should stay on. When looking at the regional situation, I wondered whether it would be fair to replicate that process as closely as possible. Although I accept that there will be an enormous cost if that ever comes about, it seemed to me that it would be fair—and, ultimately, fair to the member—to have that two-stage process. I think that most of us in this room are regional members. If it were any of us, I think that we would want the ability to put our case to the electorate if we wished to fight the recall, because otherwise—

The Convener: Is that the case even though, as a member, you arrived because of your membership of a political party and because you appeared on a ranked list?

Graham Simpson: I accept that there is a different route in, but you are talking about removing somebody's livelihood and taking them away from a very important public role. I think that it is fair that whoever that is should be able to make their case to the electorate and say, "I should stay and this is why." If we do not have a system in which a member can do that, it opens a can of worms, and we might be justified in saying that we should look at whether the constituency members should be removed in a different way. I am trying to create a system that is fair to everyone.

The Convener: So, in your mind, at a constituency level, having an individual name appearing on the ballot paper and the electorate voting for that person because they are identified very clearly, they are associated with a known political party and they have chosen to do that is no different from literally a party name appearing on the regional ballot. Are you satisfied that there is enough similarity between those two events that the process should be as similar as possible for a departing situation?

Graham Simpson: Yes. Let me put it another way: if we are being honest, nobody really knows who they are going to get when they put that cross on the ballot for the regional list. They end up with who they end up with. For that regional element, nobody voted for me individually—but if I were to be subject to a recall vote, people would have heard of me, because I would probably have done something. Then it is about the individual MSP and their behaviour—or alleged behaviour—not about the party. In my view, that individual should have the chance to make their case.

The Convener: They should have the same opportunity to put their explanation to their electorate as if they were a constituency MSP.

Graham Simpson: Correct. I have to say that I think that most people in that position would probably not seek to stay on, but they might, and they should have the opportunity to do so.

Sue Webber (Lothian) (Con): I have a quick question. Given that regional MSPs are predominantly elected on a party basis, what are your thoughts—you have just alluded to this—on the suggestion that a recall petition could also be triggered when an MSP changes political party?

Graham Simpson: Funnily enough, I was asked that by the Senedd committee. I know that this is controversial, but I do not think that it is a crime to switch parties. I am not in favour of having a recall in that situation. However, I do address the situation in which, if somebody has switched party, is subject to a recall vote and loses, they are replaced by the next party on the list that they were elected on.

Sue Webber: Is that the next individual or the next party?

Graham Simpson: The next individual on the list. This would never happen, Ms Webber, but if it were you—

The Convener: Let us make the example fictional, perhaps, to make your answer easier.

Sue Webber: I am happy for you to do it.

Graham Simpson: Okay. Well, let us pick somebody who has switched parties: Jamie Greene. If Jamie Greene were subject to a recall vote and he lost, he would be replaced by the next person on the Conservative list in the region that he was elected to.

The Convener: There is no suggestion whatsoever that Jamie Greene would be recalled.

Graham Simpson: Absolutely not. I am just using him as an example of someone who has switched parties in the current parliamentary session.

09:30

Sue Webber: We have also heard that the recall thresholds that have been set out in the bill could make it harder to recall regional MSPs than constituency MSPs—although your bill is trying to achieve parity—and constituency MSPs who represent larger urban areas compared with those who represent rural areas. It is all about the volume of people. Have you considered whether changes are needed to address that?

Graham Simpson: It would be difficult. There are some very large regions.

Sue Webber: Yes, and I know that Ms Roddick might talk about that later.

Graham Simpson: She might well do that. There are some geographically huge regions, but if we are going to have a system, we just have to work it out. We just have to accept it.

Sue Webber: Okay. I will see whether I can think of anything other than just accepting it. If you are in a region that has multiple members on the list representing that region, our party certainly splits things up a little bit and we all focus on a few areas rather than covering everything. If we are talking about region-wide recall, it goes back to an individual's awareness of who their regional MSPs might be—it could be minimal.

Thinking back to your response to the other question, I am not certain of awareness in a region of how far down the rankings an MSP such as Jamie Greene, as an example, was the last time. All of that links to awareness and something that connects with the voters so that they are aware of what is going on. Do you have any thoughts about that? It is quite a broad question.

Graham Simpson: I see what you mean. I will go back to what I said earlier. If a member is subject to recall, it is likely to mean a good deal of publicity. They will have done something pretty bad. Any regional member who might not be widely known will suddenly become widely known—that can pretty much be guaranteed.

Sue Webber: Circling back to the regional list, we are elected because of the party and, as you said, nobody really knows who is on that list or their ranking. Some might say that how that happens is quite a dark art.

When people have voted for a party and never once for an individual—they have only ever voted for the party that is on that second part of the ballot that has so many of us in it—can you not see why there needs to be a clear and straightforward mechanism when someone comes off that list because they have switched party?

Graham Simpson: Let me put a different scenario to you. People switch parties for various reasons. They could have been mistreated by their current party. They might find coming into work a total nightmare and think that they cannot put up with it any longer. Would you punish somebody who was in that situation by subjecting them to a recall vote? I do not think that you would; it would not be fair.

People switch parties for a number of reasons that might not be about political opportunism. They could have absolutely genuine reasons. Somebody might just change their views. There could be a whole load of reasons, and we have to be careful before we go down that route.

It would also open up the wider question of why, if you are going to do something about somebody who is on the list switching parties, you would not do it for a constituency member.

Sue Webber: You would want one rule for everyone.

Graham Simpson: If you were to go down that avenue, you would need to explore that as well.

Sue Webber: That is a fair point, Mr Simpson.

The Convener: That is probably exactly where we are going with the questions.

Emma Roddick (Highlands and Islands) (SNP): I was just about to ask you the question that you have just asked yourself. I am glad that you have enjoyed the evidence sessions so far—I have, too. As we have already heard, there are many concerns about the regional list element in particular, and there is a lot of conflicting evidence on what is the best way forward. I am sure that, initially, you had to weigh up those concerns. How did you come to the process for removal that is laid out in the bill?

Graham Simpson: It was not easy. I consulted, but I did not really have any answers—until I had a light-bulb moment. That sometimes happens to me—I come up with things.

I think that I have arrived at a solution—I am not saying that it is the only solution, but it is a solution. What I have proposed is a fair and proportionate solution. However, I accept that there will be different views on that; you might have a different view. I thought that the evidence that the minister gave on that last week was very good. He seemed to get what I am trying to achieve.

I am trying to be fair to everyone. It is really important that we treat regional and constituency members the same, as far as possible. We are talking about taking away somebody's job, at the end of the day, and that is a big thing. That is why I have arrived at the system that I have arrived at. It is not possible to completely replicate the system for both types of member, but, as far as possible, I have tried to do that.

Emma Roddick: You keep talking about fairness and parity between the two types of member. I go back to the answer that you gave to Sue Webber—there is something interesting about the idea that we are trying to force a first-past-the-post system on to the regional list. Did you think about doing it the other way and retaining the proportionality that came through in the election? What about replacing a recalled constituency MSP with somebody on their party list?

Graham Simpson: I do not think that it works that way.

Emma Roddick: Why not?

Graham Simpson: Because there is no list of people who could replace them. If you are elected as a constituency MSP, there is no list of people who are behind you.

Emma Roddick: There is the regional list. The way that those people who are elected from the regional list is calculated is partly based on the constituency elections—the overall calculation takes into consideration each constituency. If the goal is simply to hold individuals to account for their conduct, should we be looking at retaining the proportionality and providing the parity between the two systems that you are looking for?

Graham Simpson: Let me put it this way. Let us say that a constituency MSP decides to stand down in disgrace. They do not bother with a recall; they just say, "Right, I'm off"—they have done something bad and they are going. What would happen then? There would be a by-election. Under your system—I am not saying that you are proposing this, but you are putting it to me as a question—there would be no by-election.

Emma Roddick: There would be no by-election if that happened on the regional side.

Graham Simpson: Yes, but you have asked me about constituency members, and what you have tried to do in your question is conflate the regional element with what happens for constituencies. If a constituency member decides to stand down, there is a by-election. If a regional member decides to stand down, there is no by-election; they are simply replaced. If we were to conflate the two, we might have to revisit the Scottish Elections (Representation and Reform) (Scotland) Act 2025, and I am not sure that Jamie Hepburn would be too happy about that.

Emma Roddick: I think that people will conflate the two because, whichever way you go about it, comparisons will be made. One suggestion that was made to the committee was that a full regional by-election be held. It was pointed out to us that if somebody is upset with the conduct of an individual MSP, they might also want to hold the relevant party to account—although that is not the primary objective of your bill, of course. Although people have that opportunity in a constituency by-election, they do not have it on the regional side, where the party directly replaces the individual concerned. Do you have concerns about that disparity?

Graham Simpson: As I have said, I have tried to work within the electoral system that we have, which says that if a regional MSP resigns or leaves, they are to be replaced by the next person on the list. There is no provision to have a by-election. Therefore, to introduce such a system would be a pretty big move. I am not saying that it is a totally daft idea, but you would be, in effect, almost redoing our electoral system and the rules surrounding it. My bill does not do that—it works within the system that we have.

If we were to introduce the idea of regional by-elections, we would potentially get away from the proportionality of the d'Hondt system, which would be a very big step. We could take it a stage further and ask why, if we should have a by-election for somebody who is recalled, we would not have a by-election for somebody who, for whatever reason—there could be a variety of reasons—resigned. That would be a big move.

Emma Roddick: Absolutely. The question that I asked earlier about replacing constituency recallees with a member of their own party was about precisely that concern about retaining the proportionality of the overall Parliament.

Thinking about the bill as it stands and the system that it is working in, I have previously raised with witnesses the fact that, if a regional MSP faces a recall petition but is successful in being returned, their party would, under the current system, need to sign off on that and provide a nomination certificate. Do you think that parties would be required to do that? They might also have an issue with the individual who got returned through their party list.

Graham Simpson: My bill deals with the individual, regardless of party. The party does not really come into it. I am giving the individual the opportunity to say to the electorate that they should keep their job, regardless of whether they are backed by their original party. I imagine that there will be a lot of cases in which, if somebody has erred so badly that they are subject to a recall vote—this will happen at some point—the party, whichever one it is, might simply wash its hands of that individual, who might then be on their own. However, they, as an individual, should have the opportunity to say that they should keep their job.

Emma Roddick: In such a case, would you force the party to sign off on that?

Graham Simpson: If the person won the recall vote, I guess that they would sit as an independent.

Emma Roddick: Okay. I will pass over to Sue Webber.

Sue Webber: Mr Simpson, how do you respond to the concerns that have been expressed to the committee about the financial and administrative burden of the proposed regional recall petition process, as well as to some of the voter confusion issues that have been raised and put to us?

Graham Simpson: Let us deal with the financial element first. Obviously, there have been conflicting views—the figures that I have put

forward are different from the Government's figures. I will bring in Ben McKendrick, who did a lot of work on that. He can perhaps explain how we arrived at those figures.

09:45

Ben McKendrick (Scottish Parliament): The broad methodology is set out in paragraph 11 of the financial memorandum. We looked at the start-up costs, how many petitions there were and how many succeeded, and so on. That gives an overview of our general approach.

There was no precedent for the regional poll, so there is a scarcity of data and a lot of uncertainty. The most sensible approach seemed to be to look for other electoral processes so that we could assess the cost of an equivalent regional event. We considered the 2014 independence referendum and the 2021 elections process.

The independence referendum seemed to be the closest equivalent, because it did not involve parties—it asked a simple, straightforward question. To assess the regional cost, we divided the overall cost by eight, applied the inflation calculation to it and took off about 15 per cent because of the economies of scale that we anticipated would be made. It is also clear in the analysis that has been done that it is anticipated that the use of that regional poll process would be very rare.

Sue Webber: That addresses the financial point, but we have also heard a lot about the administrative burden on local authorities. Do you have any thoughts on that?

Graham Simpson: I have attempted to improve things in that regard. In England, if an MP is subject to a recall, there is a six-week period in which people can vote. In the bill, I have reduced that to four weeks. That is a pretty good improvement that shows that we can do things better here.

That was in response to the Electoral Commission. As I said last week, I have been working closely with the Electoral Commission, which has been in touch about a number of areas of the bill that it thinks could be improved. I am not sitting here saying that the bill is perfect—no bill is perfect. This process needs to be a collaborative effort between me and the committee, me and the Government and me and the Electoral Commission, with all of us trying to come up with something that actually works.

Sue Webber: Colleagues will ask about that six-week period later on.

On voter confusion, I am not speaking ill of voters, but we have many different electoral systems in Scotland, and your proposed system would be yet another. What are your comments on that?

Graham Simpson: I do not consider voters to be that easily confused. If a member was subject to a recall vote, there would be quite a lot of publicity around that.

Sue Webber: Yes. You have said that a few times.

Graham Simpson: Well, that is the reality. The only case that we have had in Scotland was in Rutherglen, when Margaret Ferrier was subject to a recall. We would not have found a single person in Rutherglen who was not aware of what was going on.

I accept that there are greater challenges when it comes to regional MSPs, because there is more ground to cover. There would have to be a lot of publicity and a good deal of education. If the system that I am proposing was accepted, we would have to explain to people why they were being asked to vote or go to the polls twice.

Sue Webber: I suppose that that comes under the point about the administrative burden and who would be responsible for doing all the education and communication, and for engaging with the electorate to make them aware. That all comes at a cost, including from the point of view of the time and effort involved.

Graham Simpson: It does come at a cost. Mention has already been made of the price of democracy—I suppose that that is what it is. Although I hope that that price never has to be paid, I am sure that, at some point, it will be paid. We need to have a recall system in Scotland, and that will come at a cost.

Emma Roddick: I want to go back to the processes that are in place at the moment. In the course of the committee's evidence sessions, many suggestions have been made about how to handle the situation. There is the idea of a regional by-election, which we have discussed. Other witnesses have said that if recall triggers are met by a regional MSP, they should automatically be disqualified and replaced by the next person on the list. What are your thoughts on those proposals? Are you likely to consider changes to that process for stage 2?

Graham Simpson: My approach to stage 2 is that I am open to any suggestions on any part of the bill if they would improve the bill and if it can be demonstrated that they would work. I go back to the phrase "fair and proportionate", which I have used several times—any proposed system should be fair and proportionate. The process needs to be fair to every member of the Parliament. I do not think that it would be fair to remove somebody without their having had the opportunity to state

their case; the fact that they had simply met a trigger would not be good enough. If we were to have that in a regional context, we ought to have it in a constituency context, too.

Emma Roddick: In the bill, there is currently a two-step process for regional members in which people would first have to sign a recall petition and then there would be a yes or no ballot on whether to remove the member. A suggestion has been made to put those steps together into a one-step process, which would mean that electors would have the opportunity to say yes or no from the beginning. There have been suggestions that that might improve secrecy around the recall petition. If you go to sign a recall petition, everybody knows that you are going to try to remove that MSP. There is no option to turn up and support them. What are your thoughts on that proposal?

Graham Simpson: My thoughts are that, if we accept that there is a two-step process for constituency members—we might not—then we should be consistent and have a similar process for regional members. If we were to change to a one-step process for regional members—in which case we would not have the 10 per cent threshold; we would just do away with that—we would have only one vote on whether that person should stay or go. If we did that, however, why would we not have a one-step process for a constituency member and go straight to a by-election?

Emma Roddick: Why would you not do that for a constituency member?

Graham Simpson: I put that question to you. I throw it out to the committee. If the committee is thinking that way, it needs to consider that if we are going to do something with the regional element, we would have to look at the constituency element as well. Otherwise, it is not fair.

The Convener: This is, of course, an evidence session rather than a session to decide whether we are going one way or the other. This is an opportunity to gather evidence so that the committee can then answer the questions that are being posed. To be fair to Emma, that is why she asked.

Graham Simpson: I accept that. The question is fair, but it throws up other questions. All that I am saying is that to go down that route throws up other questions.

Emma Roddick: Would a one-step process result in better parity than is in your bill currently, though, given that there is a by-election on one side and not on the other?

Graham Simpson: I am not sure that I understand that question.

Emma Roddick: You are talking about fairness and saying that if we do something on the constituency side it should happen on the regional side. Currently, the bill provides for a by-election on the constituency side in which the recalled member can stand but not one on the regional side. If you had a one-step process on both sides, they would be closer to each other than the current proposal.

Graham Simpson: We do not have that approach because of our electoral system, which does not allow for regional by-elections. If we introduced regional by-elections for recall, why would we not have by-elections for a member who just stands down? That would be delving into the whole electoral system in Scotland. The concept of a regional by-election would be completely new.

I have tried to come up with something straightforward, and it really is. You might not agree with it, but it is quite easy to understand. It is fair that, as far as it goes, we cannot completely replicate the constituency element of recall in the regional system. It cannot be done, but I have got quite close.

Emma Roddick: The evidence that we have gathered so far is that it is quite complex. We have rarely been at a point at which witnesses have agreed on the way forward. We have even had people change their minds while they were sitting in front of the committee.

Graham Simpson: They have.

Emma Roddick: We have heard evidence that a recall petition should close early if the 10 per cent threshold is met before the four weeks runs out. Your policy memorandum makes arguments about why that might not be appropriate. Has any of the evidence that we have taken so far changed your mind on that?

Graham Simpson: It has certainly caused me to think about it, but I have arrived at the same conclusion, which is that it is important that, in the first step of signing the petition, we examine the strength of feeling in the constituency or region. If the petition were stopped once it reached the threshold of 10 per cent of those eligible to sign, we would not really know what the feeling was.

There might be an overwhelming number—let us say 90 per cent, although I do not think that it would ever get to that—of people in a constituency or region saying that there should be a recall vote, which would send a message to the member who was the subject of the petition that the game was up and they might not want to push it any further. If the petition were just closed at 10 per cent, we would never know. That is why I think that it is important that we do not stop it at 10 per cent.

Emma Roddick: But 10 per cent would be enough of a message to remove that person from the job.

Graham Simpson: Well, 10 per cent is the threshold, but it is important to get the actual figure, and that is why I would not stop it at 10 per cent. I understand the argument and I have considered it. It would be cheaper, and if saving money is the aim, we could stop a recall petition at 10 per cent. However, it gives the electorate a chance to have their say and it is important that we know what the figure is.

Emma Roddick: If you want to measure the strength of feeling and test what constituents want, surely we need a yes or no process. It could be that 20 per cent of constituents sign the recall petition but 40 per cent of constituents are against it.

Graham Simpson: You are asking whether people should be able to disagree, and that is not an unreasonable proposal. Perhaps that could be explored at stage 2.

Rona Mackay: I have a small supplementary question on regional recall. I think that I know how you will answer this, but I would like you to put it on the record.

As I understand it, the Welsh threshold for recall is 10 per cent of the voters across the region, and then it goes to the next person on the list. That is straightforward. I think that I know what you are going to say, but I just want you to put it on the record. Why did you not choose that system?

Graham Simpson: I did not choose that system because the Welsh had not come up with anything when I was looking at my system. When I was asked about that in front of the Senedd committee, I said that if they were going to this entirely list-based system—which is what they have chosen to do in Wales, although why they would want to do so is beyond me—then they could almost design their own, because they would not have to deal with a Westminster first-past-the-post system, which we have here as well, or wrestle with the issues that I have had to wrestle with. They will have only one system. They have one system; we have two systems—that is why I have gone down the road that I have. I would have done the same even if the Welsh had made up their minds before I started working on my bill.

10:00

Rona Mackay: I thought that you would say that it was because it would not achieve the parity that you are trying to achieve. Do you not contend that it is simpler to get the 10 per cent of the regional voters and, if that is achieved and they want to get rid of that MSP, you just go to the next on the list? That could save money and it would be a bit simpler.

Graham Simpson: Oh, no—definitely not.

Rona Mackay: No?

Graham Simpson: No, absolutely not—10 per cent is not enough to kick somebody out of a Parliament.

Rona Mackay: Well, you could raise the percentage.

Graham Simpson: Well, you could—

Rona Mackay: —-and still have the simpler system of going to the next person on the list.

Graham Simpson: I think that you would need to give somebody an opportunity to state their case.

Rona Mackay: That is kind of what I expected you to say—

Graham Simpson: You really do.

Rona Mackay: I understand that.

Graham Simpson: It is very important. I just would not be comfortable with setting a figure—and certainly not 10 per cent.

Rona Mackay: Okay, that is fine.

Annie Wells (Glasgow) (Con): Thank you for coming along, Mr Simpson. I am looking at the recall process and the administration around it. Do we think that the provision in relation to signing places—to say where they should be, how many there should be and what time they open and close at—is adequately set out in the bill? We need to ensure that there are adequate signing places that can be extended for a certain period of time should there be a recall for any part of any region. I am trying to put two questions into one, really, about where signing places are, how many there are and when they should be opened and closed.

Graham Simpson: Some of that will be left to regulations—indeed, quite a lot of the bill allows the Government to make regulations. If we are talking about regional provision, I have said that there should be up to 10 signing places. Ben, am I right in saying that it is up to 10 across the region?

Ben McKendrick: Ten in each constituency.

Graham Simpson: Yes—up to 10 in each constituency. It does not have to be 10, but it could be up to 10, and it is obviously important that those are in the right places. Clearly, I will not set out in a bill where signing places should be; that could be left to regulations.

Annie Wells: I represent Glasgow, and I am thinking more about the fact that the Glasgow

region is totally different from, for example, Ms Roddick's area. How would we ensure that each member was treated with parity if they were to go to a recall petition? If it were me in Glasgow, people could go and sign a recall petition in a lot of places where they live and work or visit, in any constituency, whereas it would be slightly more challenging for people to get to a signing place in a more rural area.

Graham Simpson: Yes, I accept that. Glasgow is possibly the easiest area to do that in the country, whereas people would have further to travel to get to signing places in the Highlands, where they would clearly be more spread out. I imagine that that is already the case in elections. I am afraid that I do not know how far people have to travel, but I imagine that it is a lot further in the Highlands than it is for you or me in the areas that we represent. It is important that we get that right. A lot of that will be left to regulations and councils, so we need to work closely with them to get the right places.

Ben McKendrick wants to come in at this point.

Ben McKendrick: As Mr Simpson says, the bill makes it clear that there are up to 10 signing places in a constituency and then up to 10 signing places in each constituency across a region. That gives flexibility to the petitions officers who know the regions and who effectively act as returning officers to make judgments about what is appropriate, while also having a benchmark in the bill. The Electoral Management Board for Scotland welcomed that provision.

Annie Wells: People are used to going to local schools and places like that to vote. Would signing places be well enough advertised? Would they be where a local person would normally go, and would it be up to the council to highlight signing places throughout the ward? I am just thinking that when people have to vote for something, whether it be a recall petition or whatever, they automatically think that they have to go to the local primary school or wherever. I am not really talking about advertising where the signing place will be, but about how we make it coincide with where people would normally vote. If it was in Hamilton or Rutherglen, for example, and they were using places different to where people would normally vote, how would we make sure that people were aware of that under the legislation?

I know that it would be down to councils, but I am finding it a bit confusing that we are trying to do the same thing that we do when we are electing someone, but we are not electing someone—do you know what I mean? It is about the voting process and, as was said earlier, there is voter confusion about where they go and how they do it.

Graham Simpson: I understand the point that you are making very well. If we were to have a recall vote, it is inevitable that people might not be going to the place that they are used to. In a normal election, there are quite a lot of places where people go to vote, but there would be fewer under this system, so people would inevitably be asked to go somewhere different.

People could also use a postal vote, which would address the privacy issue that is a concern, particularly at the first stage, when people are voting only to say that a member should be subject to a recall vote. Postal votes could therefore be available.

If we expect people to go somewhere that they are not used to, it is a matter of communication, information and education.

Annie Wells: You mentioned postal votes. The committee is looking at the deadline for receipt of the signing papers and rules for donations and spending on campaigns. Is there provision in the bill for those things, or should there be?

Ben McKendrick: I think that I am right in saying that all that will be in regulations.

The Convener: Elections obviously have tight rules on campaign expenditure: who does it, how it is done and how it is reported. When the minister gave evidence about the recall petition, he made the point that an individual could face an unknown campaign to remove them. Would that need to be addressed in secondary legislation? Would you expect the financing in relation to the petition to be dealt with in secondary legislation, and should it be dealt with by secondary legislation for the purposes of the recall petition?

Graham Simpson: It is an area that should be looked at further, but it should be left to regulations.

The Convener: Absolutely. I have a couple of questions with regard to the custodial sentence aspect. At the minute, as you rightly set out, the rules specify a sentence of more than 12 months and the bill looks at reducing that to six months. I go back to the word "objective", which is the word that I have probably used the most today. Is the objective test the fact that the custodial sentence is six months, or is it about the type of case that has occasioned that six-month sentence?

Graham Simpson: It would be very difficult to set out in the bill a list of offences that would lead to the removal of a member, which is why I have gone for an actual term. The background to that is the case of Bill Walker, a former MSP and the only MSP whom I will name during this meeting. It was a high-profile case. He was jailed for wife beating—for exactly 12 months but not more than that, so he could not be removed. There you had

somebody who was jailed for extremely serious offences but could not be removed. Although he ultimately stood down, it seemed to me to be an absurd situation, so I thought that we should perhaps look at the matter again and reduce the specified period.

I accept that different people might have different views on whether I got that right, but that is the background to that provision. I thought that it was certainly wrong that somebody who was jailed for extremely serious offences could just stay in jail for 12 months and then return to his job.

The Convener: Let me delve into that. You talked about serious offences; there might be other offences that a group of the community would perhaps despair at. For example, the provision would be triggered if someone were in prison for more than six months for contempt of court, but people might dispute the reason for the sentencing. I am not inviting you to comment on that unless you wish to. Are you content that the trigger should be the sentence of imprisonment for six months—or, indeed, for longer but for less than 12 months and one day—rather than the reason for which that sentence has come about?

Graham Simpson: Correct. It is not for me to get into individual court cases. I mentioned that particular case because it happened and serious offences were involved. To merit that somebody be jailed for six months, the crime would have to be of a sufficient seriousness. However, I do not think that we should list in the bill the offences that would be covered.

The Convener: Would you express the same justification in relation to a suspended sentence? Let us say that a judge has looked at a situation and deemed imprisonment to be the appropriate measure but has decided that, in the circumstances, there should be a suspension. There are questions whether that would trigger the provision in the bill. What is your view on that?

Graham Simpson: I think that it is enough that somebody is incarcerated.

The Convener: So, it is about the act of incarceration?

Graham Simpson: Correct.

The Convener: But in a suspended sentence, there would not be an incarceration, therefore it would not trigger—

Graham Simpson: I think that somebody would have to be in jail.

The Convener: Right. That is what I am driving at.

Graham Simpson: The person would actually have to be locked up.

The Convener: It is the act of losing one's liberty that occasions the provision.

Graham Simpson: Yes.

The Convener: My other question relates to completion of rights of appeal. There might be situations in which someone is imprisoned but there is still a right of appeal. What is your view? Must the rights of appeal be exhausted, notwithstanding the fact that the person might be incarcerated during that process? Or is it the incarceration that triggers the provision, even though a conviction might subsequently be quashed on appeal?

Graham Simpson: I will bring in Ben on that one, because we have covered that issue in the policy memorandum.

Ben McKendrick: The position is set out in paragraphs 83 and 84 of the policy memorandum. The bill's provision on appeals draws on provision in the Scotland Act 1998, which draws on the Representation of the People Act 1981. Catriona Lyle might want to come in on that point.

10:15

Catriona Lyle (Scottish Parliament): There are two different parts. The recall elements would apply to someone with a suspended sentence or someone whose appeal process had been exhausted. The bill is replicating the position under the Recall of MPs Act 2015.

At present, in relation to automatic removal, the key issue is whether somebody has been detained, as we have spoken about. The bill does not propose changing that; it is the threshold that would be changed. At present, there are no rights of appeal if somebody is automatically removed because they have received a sentence of more than 12 months. The bill does not change that; it is the threshold that would be changed.

Article 6 of the European convention on human rights sets out the right to a fair trial, but there is authority at Strasbourg and at domestic levels that says that the right to retain a seat in Parliament is a political right, not a civil right, so it is not covered by article 6. That is our position on article 6.

The Convener: I invite you to go the other way on that. I imagine that I know what your answer will be, but the right to a fair trial might, in fact, apply if an appeal is successful and there is a retrial, and the public might be influenced and think, "Ah well, they've been kicked out as an MSP."

Catriona Lyle: It is entirely possible that someone who goes on to appeal could have already lost their seat. There is nothing to prevent somebody from appealing their conviction. The

conviction itself does not lead to the loss of the seat; the loss of the seat is the potential consequence of being convicted for a certain period of time.

The Convener: The sentence is the trigger, not the simple fact that somebody has been convicted, albeit that the person ceasing to be an MSP, as well as the subsequent petition, might well affect any retrial. You are saying that, if it was the other way around, it would be a political decision and would not be covered by article 6. On the criminal side, you are saying that consideration of the events of losing a seat is outwith the bill's scope, although I am not saying that you do not have concerns in that regard.

Catriona Lyle: The bill would not prevent somebody from restanding. The disqualification would not be indefinite.

Graham Simpson: Convener, you have raised one of the issues with which I have wrestled. I have come down on one side of the argument, but I can see the other side of the argument. We might wish to explore the issue at stage 2 or in discussions with the minister.

The Convener: Finally, in relation to the custodial provisions, someone being on remand would not trigger the process.

Graham Simpson: No.

The Convener: That is all right. I just thought that it would be useful to have that on the public record.

Rona Mackay: Before I ask my set of questions, I want to pick up on Annie Wells's line of questioning. When you were talking about postal votes, I had a random thought. Did you, or would you, consider making the process entirely postal, given that that would cut a lot of costs and that this would be a departure from the norm anyway?

Graham Simpson: I have not considered that. I would need to give that some thought. Given that you have raised that option, I am just trying to think it through. A lot of people like to vote in person—I am one of those people.

Rona Mackay: It would address the question of privacy, which you mentioned, and it would cut costs.

Graham Simpson: That is true, but I think that people should have the choice. I like to do things in person. I had a postal vote for a while, but I did not really like it—I had it only because there was a by-election during a holiday period.

Rona Mackay: I just dropped that point in because I had not thought of it until Annie Wells was asking her questions.

Graham Simpson: It is an interesting thought, but I think that voters should have the choice, and using a postal vote addresses the privacy issue, if that is something that concerns the elector.

Rona Mackay: I will turn to part 3, on physical non-attendance and the sanctions for that. Why do you think that legislation is necessary in that regard, rather than using the MSP code of conduct? Do you feel that the code of conduct would not be strong enough or is not working?

Graham Simpson: I do not think that it would be strong enough. The code of conduct can be easily changed, so anything that you did now could be changed later.

My starting point was the Local Government (Scotland) Act 1973, which applies to councillors and which I mentioned earlier. It seemed to me that, if we have a law that requires a certain level of attendance by councillors, we really ought to have the same for MSPs. However, as you know, there is currently nothing in that regard.

Rona Mackay: How did you arrive at the 180-day mark? Was there any reason for that? Or did you just think that that was a good balance?

Graham Simpson: It is as near as possible to six months, taking into account recess periods and so on.

Ben McKendrick: And different lengths of months.

Rona Mackay: Okay. That is fine.

Can you explain why you do not consider remote attendance a valid means of attendance?

Graham Simpson: I can. It is my view that, if you are elected to this place, it is not unreasonable to expect that you might just occasionally turn up, unless you have a valid reason for not doing so.

I know that we currently have remote working arrangements, but I just do not think that it is acceptable for any member of this Parliament to sit at home and operate remotely for the entire five years of their elected period, and I do not think that the public would think that that was acceptable either. That would not be acceptable in any other workplace, so why should we be any different?

Clearly, as I said earlier, if someone has a good reason why they cannot be in the building, that is fine and we need to respect that—there could be a host of good reasons why people cannot come in. However, if they are physically able to come in, they should.

Rona Mackay: We have heard concerns that the requirement might disadvantage members of underrepresented groups or people with certain

responsibilities, such as caring responsibilities—mostly women. Do you accept that, or do you stand by your earlier point that you think that they should make the effort to come in?

Graham Simpson: We currently have MSPs with caring responsibilities. There are MSPs with young children, and they manage to make things work. The proposal does not penalise anyone. All that it is asking is that somebody physically come into the building once every six months. That is not too much to expect of an elected member of this Parliament.

Rona Mackay: How would the actual counting of when someone was in be done? Who would be responsible for monitoring that?

Graham Simpson: This committee has a role and parliamentary authorities have a role. It is quite easy to monitor whether somebody is in a committee room or in the chamber. All my bill does is say that you should actually be present. Any of you could be recorded as being present today—you do not even have to speak; you just have to be here. The requirement is not particularly onerous, to be honest.

Rona Mackay: Apologies if I have missed this, but, if someone was allegedly not coming in when they should be and so on, would that case come before this committee? Who would instigate the recall process?

Graham Simpson: Well, in the case of non-attendance, we are not talking about a recall process.

Rona Mackay: Okay, but, generally, would this committee be involved—

Graham Simpson: You mean who would monitor people's attendance?

Rona Mackay: Yes, and would we be sitting here saying that we had had a request to look into whether a certain person had broken the rules?

Graham Simpson: The parliamentary authorities would have to come up with a system for monitoring attendance. I am not going to lay that out in detail—I do not think that that would be right. This committee would certainly have a role if somebody was falling foul of the requirement to attend, and we have to trust the members of this committee to keep issues private, as they do—I think that this committee works very well.

In previous meetings, the issue arose of whether, in such cases, this committee should have lay members, so that decisions could be de-politicised. The bill does not address that, but it is perhaps something that should be considered.

Rona Mackay: It has come up in evidence.

Graham Simpson: I know that the equivalent committee at Westminster has lay members. As I said, it is something that should perhaps be considered.

Rona Mackay: Finally, are you confident that sensitive and personal information regarding someone's circumstances could be kept private? Do you have concerns about whether, in the case of someone who was alleged not to have been in for 180 days, the information around that would stay private?

Graham Simpson: I am confident that the members of this committee would ensure that stuff did not leak. It would be a serious matter if it did. Membership of this committee comes with certain responsibilities, and confidentiality is one of them. I have never sat on this committee, but I am sure that you deal with things that are confidential, and there have been no leaks. We just have to trust members of this committee to do their job.

The Convener: Emma Roddick has a question.

Emma Roddick: I want to pick up on that. As you said, the requirement to attend at least once in 180 days is not particularly onerous. My concern is that, because the requirement is not a high bar for somebody who is physically and mentally able and does not have caring responsibilities, it is likely that the only people you would catch with the provision would be those with good reasons for not attending, and they would then have to share those good reasons with colleagues who were in political opposition to them. Do you agree that that is a possibility?

Graham Simpson: No, I do not think so. The provision aims to capture people—I am not going to name names—who have just decided that they are not going to come in. It has happened in councils and it will happen here. I hope that it is a rare event, but people are people—

Sue Webber: It is human nature.

Graham Simpson: Yes—as Ms Webber says, it is human nature. Unfortunately, at some point, there will be somebody who just decides that they are not going to come in. The proposal does not target people who have valid reasons not to be here.

I would think that, if you yourself were going to be off for any period, you would probably go and see Ms Mackay and explain why you could not come in, and it would go no further. If she is the caring individual that I think she is, she would say, "Well, that's okay. Don't come in for however long you need." I think that that is probably the way that it would work. However, if someone thinks that they are going to be off for an extended period, for whatever reason, I do not think that it is unreasonable for them to tell the parliamentary

authorities that that is the case and to explain why. I trust the parliamentary authorities not to leak that. I trust people in this Parliament to keep things private.

10:30

Emma Roddick: I note that the equality impact assessment states that religion is not applicable. The parliamentary calendar works around Christian holidays, so might there be an interaction there? I am also thinking about those who are likely to be targeted with hate crimes. There have been situations in which MSPs have been targeted because of their religion, which would perhaps come into play in a recall situation.

Graham Simpson: Are you talking about recall or non-attendance?

Emma Roddick: I am talking about the 10-day limit, how an individual trigger is likely to be viewed and whether such characteristics might come into play when folk decide how to treat the trigger.

Graham Simpson: No, I do not see that coming into play. I cannot see religion being relevant, really.

Emma Roddick: That is what the equality impact assessment says. I was only concerned that religion might be relevant because race has been noted as being relevant.

Graham Simpson: I genuinely do not see how it would be. There would need to be a religious holiday of six months, and I do not think that there are any such holidays. I really do not see religion coming into play.

Emma Roddick: Can you see that there is a difference? The parliamentary calendar works for those who want to attend or observe Christian holidays, but it does not work in the same way for other religions.

Graham Simpson: I genuinely do not understand the point that you are making.

Emma Roddick: Okay.

Graham Simpson: Sorry.

The Convener: What does "physical attendance" mean in the bill?

Graham Simpson: In the bill, "attendance" means coming in.

The Convener: To where?

Graham Simpson: Here—this Parliament.

The Convener: To be facetious, do you mean swiping to come into the building?

Graham Simpson: It means attending a committee meeting such as this one or a session in the chamber; it does not mean attending a cross-party group or a reception in the Parliament.

The Convener: You have foreseen where my questions are going. Effectively, under the procedures that we have at the moment, if you attend an open meeting of a committee that you are a member of or attend a committee to speak to a member's bill, as you have done, your attendance is noted in the *Official Report.* Similarly, for a plenary session in the chamber, you presumably have to put your card into the slot and wait for the little lights to light up. You are not required to contribute or vote, and you are not required to actively follow a process in order to get yourself on the record as having attended.

Graham Simpson: Correct. You need to turn up only once every six months. As Emma Roddick said, doing so is not particularly onerous. Perhaps I am being too lenient.

The Convener: Given the specificity that I have given on the chamber and committee, should the primary legislation define attendance, or would you prefer to see the definition in secondary legislation, because it might change?

Graham Simpson: The bill does define it. Section 26(2) states:

> "due to the person's failure to physically attend proceedings as a member, the Parliament has resolved to disqualify the person in accordance with standing orders made by virtue of section 27 of the Scottish Parliament (Recall and Removal of Members) Act 2025."

That is the vote that you would have in order to disqualify the person in accordance with standing orders.

The Convener: The reason that I am exploring—

Graham Simpson: You have to be physically here, and that is stated in the bill.

The Convener: It is, but I am exploring what "physical attendance" means. Does it mean being in the chamber with your card in the machine or at a formal, open committee meeting, even though you might not be a committee member?

Graham Simpson: It means physically being in a committee meeting or in the chamber.

The Convener: In the chamber during a plenary session.

Graham Simpson: Actually, the reason that I did not say that you have to speak goes back to the whips question, because our ability to make speeches is quite often at their mercy.

The Convener: I was certainly not inviting an additional point of order before decision time. [*Laughter.*]

Graham Simpson: No, let us not do that.

The Convener: This is the final oral session, so, if you have thoughts after the session on what has been asked, please reach out to the committee. Do you want to say anything, Graham?

Graham Simpson: I just want to thank you and the committee. It has been a thorough session, which I have enjoyed. I hope that it has been helpful. I look forward to seeing your stage 1 report.

The Convener: That you enjoyed it might be the kindest comment the committee has ever received. We will not go further than that.

I will suspend the meeting briefly to allow those attending the evidence session to leave.

10:35

Meeting suspended.

10:39

On resuming—

Absent Voting (Elections in Scotland and Wales) Bill

The Convener: Welcome back. Agenda item 3 is consideration of a legislative consent memorandum on the Absent Voting (Elections in Scotland and Wales) Bill, which is a private member's bill that has been introduced in the House of Commons by Tracy Gilbert MP. The bill relates to absent voting at local government elections in Scotland and Wales and at elections to the Scottish Parliament and the Senedd. It will give the Scottish and Welsh Governments powers to introduce regulations that enable applications for postal and proxy votes for devolved elections to be made online using the online absent vote application—OAVA—service, which has been developed by the UK Government.

Members have a note from the clerk, which includes a copy of the memorandum that has been lodged by Shona Robison, the Cabinet Secretary for Finance and Local Government. It was lodged on 12 June 2025 following consideration of the bill at committee stage on 11 June 2025. Consideration at report stage is scheduled for 4 July 2025.

The Minister for Parliamentary Business wrote to the relevant UK Government minister on 30 May 2025, before the date was set for the committee stage. In that letter, the minister noted that a date for consideration of the bill at committee stage had not been set, and he expressed his

"concern over the limited time now available for the Scottish Parliament to give its consent and also that"

he

"will now be obliged to ask it to do so to an expedited timetable"

in order for the Parliament's consent decision to be given before our summer recess.

The Scottish Government recommends that consent be given. It is anticipated that the Delegated Powers and Law Reform Committee will consider the LCM at its meeting on Tuesday 24 June 2025.

If no members wish to make any comments or ask any questions regarding the memorandum, I propose that the committee writes to note the concern that we will have to expedite the provision of the LCM because of when our summer recess starts. When it comes to Westminster, the lodging of LCMs sits outside the control of the Scottish Government and the Scottish Parliament.

Are members content to support the LCM but to defer publication of the committee's report until after the DPLR Committee has had the opportunity to consider it next Tuesday?

Members *indicated agreement.*

The Convener: Are members content to delegate authority to me to sign off the terms of the report?

Members *indicated agreement.*

The Convener: Excellent. We will now move into private session.

10:42

Meeting continued in private until 11:08.

This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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